

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

JOHN DOE #1, an individual, JOHN DOE #2,
an individual, and PROTECT MARRIAGE
WASHINGTON,

Plaintiffs,

vs.

SAM REED, in his official capacity as
Secretary of State of Washington, DEBRA
GALARZA, in her official capacity as Public
Records Officer for the Secretary of State of
Washington,

Defendants.

No. **C09 5456**
DECLARATION OF SCOTT F. BIENIEK
PURSUANT TO FED. R. CIV. P.
65(b)(1)(B)

NOTE ON MOTION CALENDAR: [DATE]

I, Scott F. Bieniek, make the following declaration pursuant to 28 U.S.C. § 1746:

1. I am an attorney at law licensed to practice in the State of Illinois. I am an attorney at the law office of Bopp, Coleson & Bostrom in Vigo County, Indiana. I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I can and would testify competently thereto.

2. This declaration recites my efforts to provide Defendant Sam Reed, Secretary of State of Washington, Defendant Debra Galarza, Public Records Officer for the Secretary of State of Washington, and Rob McKenna, Attorney General for the State of Washington, with notice, pursuant to Fed. R. Civ. P. 65(b)(1)(B), of Plaintiffs' intent to seek a temporary restraining order

Declaration of Scott F. Bieniek
Pursuant to Fed. R. Civ. P.
65(b)(1)(B)

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BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434

1 to prevent Defendant Reed and Defendant Galarza from releasing copies of the Referendum 71
2 petition pursuant to the Washington Public Records Act, Wash. Rev. Code § 42.56.001 *et seq.*,
3 or otherwise.

4 3. On Tuesday, July 28, 2009, at approximately 1:05 p.m. EDT, 10:05 a.m. PDT, I
5 attempted to notify Defendant Sam Reed, Secretary of State of Washington. I was transferred to
6 Ingrid Pharris, whom I believe is the Executive Assistant to Defendant Reed. Ms. Pharris was
7 unavailable and I left a message regarding the matter on her voicemail.

8 4. On Tuesday, July 28, 2009, at approximately 1:10 p.m. EDT, 10:10 a.m. PDT, I spoke
9 directly with Defendant Galarza. I informed her that she was being sued in her official capacity
10 as Public Records Officer for the Secretary of State of Washington, and that she was named in
11 the complaint to prevent the public release of the Referendum 71 petition. I also informed
12 Defendant Galarza that local counsel was on his way to the federal courthouse in Seattle,
13 Washington, to seek a temporary restraining order to prevent the release of the Referendum 71
14 petition. I offered to provide her with copies of the documents that are to be filed via email.

15 5. On Tuesday, July 28, 2009, at approximately 1:20 p.m. EDT, 10:20 a.m. PDT, I phoned
16 Attorney General Rob McKenna's office and spoke with Deputy Solicitor General Bill Collins. I
17 informed Mr. Collins that local counsel was on his way to the federal courthouse in Seattle,
18 Washington, to seek a temporary restraining order against Defendant Reed and Defendant
19 Galarza to prevent the public release of the Referendum 71 petition. Mr. Collins took my name
20 and number and stated that he would have an individual more familiar with the topic return my
21 call.

22 6. Plaintiffs will attempt to perfect service pursuant to Fed. R. Civ. P. 4(j)(2) on all
23 Defendants as soon as practical. However, given that the Referendum 71 petition was filed with
24 the Secretary of State on Saturday, July 25, 2009, and statements by Defendant Galarza that
25 copies of the petition would be made available to the public as early as Wednesday, July 29,
26 2009, Plaintiffs were unable to perfect service prior to filing their Motion for Temporary
27 Restraining Order and Preliminary Injunction.
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Pursuant to Fed. R. Civ. P.
65(b)(1)(B)

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1 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
2 AND CORRECT.

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4 Executed this 28th day of July, 2009.

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7 Scott F. Bieniek
8 Counsel for All Plaintiffs
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